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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

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I. General

1. A detailed account of the general conditions and developments relating to Western Sahara was provided in the previous working paper on the Territory prepared by the Secretariat dated 2 June 1999 (A/AC.109/1999/11).

II. Good offices of the Secretary-General

2. Pursuant to General Assembly resolution 53/64 of 3 December 1998, the Secretary-General submitted to the General Assembly at its fifty-fourth session a report on the question of Western Sahara dated 13 September 1999 (A/54/337). The report covered the period from 30 September 1998 to 31 August 1999 and reviewed the action taken by the Secretary-General in the exercise of his good offices with the parties concerned, in close cooperation with the Chairman of the Organization of African Unity (OAU), the activities of the Special Representative and the Personal Envoy of the Secretary-General and major developments during the period. Since that report, the Secretary-General, in close cooperation with the current Chairman of the OAU, has continued to exercise his good offices with the parties concerned.

3. During the period under review and pursuant to Security Council resolutions 1238 (1999) of 14 May 1999, 1263 (1999) of 13 September 1999 and 1282 (1999) of 14 December 1999, the Secretary-General presented six reports to the Security Council on the situation concerning Western Sahara (S/1999/721, S/1999/875, S/1999/954, S/1999/1098, S/1999/1219 and S/2000/131).

4. On 25 June 1999, the Secretary-General submitted to the Security Council a report (S/1999/721) pursuant to Security Council resolution 1238 (1999) in which he recalled that on 18 May 1999 he had informed the Council of his decision to appoint William Eagleton (United States of America) as his Special Representative for Western Sahara (S/1999/590). The Council took note of his decision in a letter dated 21 May addressed to him by the President of the Council (S/1999/591).

5. In his report, the Secretary-General informed the Security Council that Mr. Eagleton had taken up his responsibilities on 21 May and, before proceeding to the mission area, had undertaken consultations with the Secretary-General's Personal Envoy and senior officials of the United Nations, including the United Nations High Commissioner for Refugees, as well as representatives of the parties and interested Member States. Mr. Eagleton then flew to Rabat where he was received by His Majesty King Hassan II of Morocco and also met with senior Moroccan officials. In Tindouf, in Algeria, he met with the Secretary-General of the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro (Frente POLISARIO), Mohamed Abdelaziz, and other senior officials of the Frente POLISARIO. He also visited Laayoune before visiting Nouakchott, where he met the President of Mauritania, Maaouya Ould Sid'Ahmed Taya, and other Mauritanian senior officials. He went last to Algeria, where he met with President Abdelaziz Bouteflika and other senior government officials. Both parties and the neighbouring countries expressed their support for his efforts and their commitment to the implementation of the Settlement Plan.

6. The identification operation had resumed on schedule on 15 June 1999, at one centre in Laayoune in the Territory and one at Camp Smara in the Tindouf area. The Office of the United Nations High Commissioner for Refugees (UNHCR), in close consultation and coordination with the United Nations Mission for the Referendum in Western Sahara (MINURSO), continued its preparatory work for the repatriation of Saharan refugees as provided for under the Settlement Plan, with a joint Morocco-MINURSO exploratory mission to the Territory. Also, pre-registration was being carried out to ascertain the refugees' willingness to repatriate and to determine their final destinations in the Territory.

7. UNHCR had also prepared a draft plan of action for its cross-border confidence-building measures aimed at creating confidence and trust within the refugee camps and in the Territory. The draft plan and its time frame were to be presented to the Security Council, pursuant to resolution 1238 (1999), during the Council's informal consultations and thereafter to the parties for discussion of the implementation procedures.

8. In conclusion, the Secretary-General stated that the agreements with the two parties on the resumption of the identification process and the initiation of the appeals process were being implemented as planned, with the cooperation of both sides. It was important

that both parties should stay the course in that regard, in particular with respect to the launching of the appeals process, on 15 July 1999, in conjunction with the publication of the first part of the provisional voters list.

9. On 12 August 1999, pursuant to resolution 1238 (1999), the Secretary-General submitted a progress report (S/1999/875) to the Security Council. In the report, the Secretary-General stated that his Special Representative had continued consultations with the two parties and interested Member States, with a view to securing implementation of the Settlement Plan and key provisions of the United Nations package. These included the initiation of the appeals process for identified applicants, the simultaneous identification of the remaining applicants from certain tribal groupings and the necessary preparations for the return of refugees and other Saharans residing outside the Territory who would be eligible to vote, together with their immediate families.

10. Both Morocco and the Frente POLISARIO had expressed satisfaction that the time frame envisaged in the package had been respected, namely by the resumption of the identification process on 15 June and the publication of the first part of the provisional list of eligible persons with the start of the appeals process on 15 July. At the same time, both parties had expressed cautious optimism for the next stages in the implementation of the Plan.

11. The Secretary-General informed the Security Council that he had attended the funeral of King Hassan II on 25 July and had met briefly with His Majesty King Mohammed VI and senior Moroccan government officials, President Abdelaziz Bouteflika of Algeria, as well as with his Personal Envoy and Special Representative while in Rabat. In his Throne Speech on 30 July, His Majesty King Mohammed VI had renewed his commitment to Morocco's territorial integrity through the holding of a "confirmative" referendum under the auspices of the United Nations. The same day, President Bouteflika had reiterated that the Western Sahara issue should be dealt with by the United Nations and within the framework of the Houston Agreements, while the issue of Algeria's bilateral relations with Morocco was to be addressed between the two countries.

12. At a meeting with the Special Representative of the Secretary-General and the Identification Commission at Rabat on 31 July, the Minister of the Interior of Morocco, Driss Basri, had confirmed his country's determination to proceed with the holding of the referendum and had urged all concerned to speed up preparations for the repatriation of Saharan refugees, requesting UNHCR to increase activities to that effect.

13. At Rabat on 9 July, the Special Representative of the Secretary-General had met with Interior Minister Basri, who had reiterated Morocco's concern about several thousand applicants who had been eliminated during the review exercise undertaken by the Identification Commission throughout the identification process. In his reply of 9 July 1999 to the Moroccan Minister for Foreign Affairs, who had expressed similar concerns in a letter dated 14 May, the Secretary-General had emphasized that those applicants would have a full opportunity to seek and obtain redress through the appeals process, if it was concluded that they had been withdrawn without valid reason from the provisional list of voters. The Secretary-General had also explained the review procedures, which might reverse the initial decision of the interviewing Identification Commission member to include or to exclude applicants from the provisional list.

14. Two issues had caused delays in the identification operation for certain tribes in grouping H61, namely the appointment of sheikhs and that of their advisers. Under paragraph 9 of the identification protocol (see S/1999/483/Add.1), the parties were to appoint two sheikhs each for the identification of applicants from the Ait Ousa tribe, the first pair before 1 August 1999. Morocco's appointment of the latter was still awaited. With regard to the advisers to the sheikhs, that issue pertained only to the group of 13 tribes listed in paragraph 10 of the identification protocol. In that regard, Morocco had objected to the fact that the advisers designated by the Frente POLISARIO were not members of the tribes concerned. The Identification Commission and the United Nations Secretariat were of the opinion that, under paragraph 10 of the identification protocol, the adviser who could be designated for each of the 13 tribes did not have to be a member of the tribe concerned. Originally scheduled for 30 June 1999, the identification of applicants from that group of tribes had to be postponed, pending a resolution of the issue. The number of applicants

interviewed since the start of the identification process on 28 August 1994 stood at 155,923.

15. The appeals process was launched by the Identification Commission on 15 July 1999, when the first part of the provisional list of persons authorized to vote was communicated by the Special Representative of the Secretary-General to the two parties and made public. That first part included 84,251 names of applicants found eligible to vote, out of 147,249 identified during the first two phases of the process from 28 August 1994 to 22 December 1995 and from 3 December 1997 to 3 September 1998.

16. During the reporting period, UNHCR, in close consultation and coordination with MINURSO, had continued its preparatory work for the repatriation of Saharan refugees as provided for under the Settlement Plan. A UNHCR mission had visited Laayoune from 13 to 15 July 1999 to discuss with MINURSO the ongoing preparations for the repatriation of Saharan refugees, as related to the revised time frame for the implementation of the Plan. Discussions had focused on outstanding political issues, logistics planning, confidence-building measures and administrative matters. UNHCR and MINURSO had agreed on the need for a common approach and had decided to hold a joint follow-up workshop in Laayoune in September 1999.

17. At a brief meeting with UNHCR in Rabat on 15 July 1999, Interior Minister Basri had conveyed his Government's full support and cooperation to enable UNHCR to complete its work for the return of refugees, in accordance with its mandate and as provided for in the Settlement Plan. Meanwhile, the Special Representative of the Secretary-General together with UNHCR had visited Tindouf, where he met with the Secretary-General of the Frente POLISARIO, Mohamed Abdelaziz, its Coordinator with MINURSO, Emhamed Khadad, and other POLISARIO officials, to review current planning for the repatriation of refugees and other issues.

18. The draft plan of action on confidence-building measures presented to the Security Council in June 1999 had been subsequently submitted to the parties, with a view to securing their cooperation on implementation procedures and a time frame. During the preliminary discussions, both parties had concurred on the importance of such cross-border activities to create confidence both within the camps and in the Territory. The draft plan would be discussed with the Frente POLISARIO in Tindouf and with the Moroccan authorities during a mission scheduled for late August 1999.

19. In conclusion, the Secretary-General said that the resumption of the identification operation and the initiation of the appeals process, as well as the publication of the first part of the provisional voters' list, had been achieved. Preparations for the repatriation of refugees were being stepped up by UNHCR and MINURSO with the parties concerned. It was now important for confidence-building measures to be implemented promptly through the establishment of communication facilities and visits.

20. At the same time, he added, it should be recognized that delays in solving certain issues in the identification operation and the staggered opening of the appeals centres, compounded by difficulties in meeting the staffing requirements, had affected parts of the timetable for the referendum process. Special efforts were being made by the Secretariat to increase the staffing of the Identification Commission to the required levels. The full cooperation of both parties with MINURSO for the timely completion of the identification and appeals processes remained essential.

21. In his report of 8 September 1999 (S/1999/954) submitted to the Security Council pursuant to resolution 1238 (1999), the Secretary-General informed the Council that his Special Representative for Western Sahara, William Eagleton, had pursued consultations with the parties with a view to securing the continuation of the appeals process and the simultaneous identification of the remaining applicants from tribal grouping H41, H61 and J51/52, as well as preparatory work for the repatriation of refugees and other Saharans residing outside the Territory who were eligible to vote, together with their immediate families. To that end, the Special Representative had met with the Prime Minister of Morocco, Abderrahmane Youssoufi, the Minister of the Interior, Driss Basri, the Minister for Foreign Affairs, Mohamed Benaissa, and the Permanent Representative of Morocco to the United Nations, Ahmed Snoussi, at Rabat from 16 to 19 August 1999. The Chairman of the Identification Commission of MINURSO, Eduardo Vetere, had met with the Frente POLISARIO Coordinator with MINURSO, Emhamed Khaddad, at Tindouf on 17 and 18 August.

22. The Secretary-General pointed out that, while some delays had occurred, the continuation of the appeals process and the resumption of the identification operation on 6 September could be considered as positive indications that both Morocco and the Frente POLISARIO intended to maintain the progress made towards the holding of the referendum. Difficulties with respect to the nomination of additional sheikhs and advisers to the sheikhs had been resolved. Shortages of qualified United Nations personnel had been addressed in part. The Identification Commission could now foresee the completion of identification for the remaining applicants from tribal groupings H41, H61 and J51/52 before the end of December 1999. However, the number of appeals filed to date was substantial and would require more time and the deployment of a larger staff than originally envisaged. After the closure of receipt of appeals on 18 September 1999, the Commission would be in a better position to estimate the time required to complete the processing of appeals and the holding of hearings.

23. The Secretary-General further informed the Security Council that the preparations for the repatriation of refugees had been jointly addressed by UNHCR and MINURSO, and the relevant consultation were in progress with the Government of Morocco and the Frente POLISARIO. The UNHCR plan of confidence-building measures was under discussion with the parties, as was the draft repatriation planning protocol. UNHCR had designated a senior representative to be posted in Laayoune and was actively pursuing technical planning activities in the Territory. Pre-registration in the refugee camps in the Tindouf area was expected to resume on 10 September 1999, following a brief suspension during the Frente POLISARIO congress.

24. In consultation with United Nations Headquarters, discussions between MINURSO and the Moroccan authorities were in progress on modalities for implementing paragraph 42 of the status-of-forces agreement concerning the carriage of weapons by MINURSO troops. An arrangement to that effect was expected to be finalized in September 1999.

25. The Secretary-General noted that the developments he described in his report had fallen short of earlier expectations, but expressed his belief that, taking into account events outside the control of the parties and the United Nations, they could be considered as progress. However, given the delays which had occurred in the identification operations, he was not yet in a position to submit to the Security Council a revised timetable and financial implications, including recommendations for the Council to authorize preparations for the full deployment of MINURSO. He envisaged that it would be possible to do so early in December 1999, if current efforts were maintained and enhanced by all concerned.

26. The Secretary-General recommended that the Security Council consider extending the mandate of MINURSO for a period of three months, until 14 December 1999. That would allow for the completion of identification as envisaged and for a comprehensive assessment of steps taken towards the completion of the appeals process, as well as towards the preparation and the start of the transitional period.

27. In his report of 28 October 1999 (S/1999/1098), submitted to the Security Council pursuant to resolution 1263 (1999) the Secretary-General informed the Council that his Special Representative, William Eagleton, together with the Chairman of the Identification Commission, Eduardo Vetere, had visited United Nations Headquarters for consultations from 8 to 15 September 1999. They had pursued subsequent consultations with the parties in the region. In that regard, the Special Representative had met with the Minister for Foreign Affairs of Morocco, Mohamed Benaissa, at Rabat on 5 and 12 October 1999, and with the new Moroccan Coordinator with MINURSO, Mohamed Loulichki, at Laayoune on 7 October 1999 and thereafter; both had reiterated their Government's position that the Settlement Plan and subsequent agreements should be fully implemented and that all applicants had the right to appeal. The Special Representative had been assured of the Frente POLISARIO's firm commitment to the referendum process by Secretary-General Abdelaziz and the Coordinator with MINURSO, Emhamed Khaddad, at Tindouf on 8 and 9 October 1999. The Chairman of the Identification Commission had also met with the POLISARIO Coordinator at Tindouf on 6 October 1999, and with the Moroccan Coordinator at Laayoune on 8 and 19 October 1999. The Secretary-General of the United Nations had met with Foreign Minister Benaissa of Morocco, and the Frente POLISARIO Coordinator with MINURSO, Mr. Khaddad, at Headquarters on 29 September and 28 October 1999, respectively.

28. In the meantime, on 29 September 1999, King Mohammed VI had appointed Mr. Loulichki as Morocco's new Ambassador-Coordinator with MINURSO. Some days earlier, on 23 September, it had been announced that the King had also created a Royal Commission on Western Sahara Affairs whose members would include Saharans, other representatives of the Territory's population, military and government officials. The two decisions had been made against a background of communal disturbances at Laayoune on 27 and 28 September 1999 which had followed the break-up by police of a student and worker demonstration on 22 September 1999. In that regard, the Secretary-General had received a letter of protest dated 23 September 1999 from the Secretary-General of the Frente POLISARIO, Mohamed Abdelaziz. MINURSO reported that the Moroccan authorities had released those detained on 22 September, sanctioned security officials and sentenced to prison 27 persons who had participated in communal rioting and looting on 27 and 28 September, and that a Moroccan ministerial delegation had been dispatched to Laayoune on 6 October 1999 to address grievances.

29. The Secretary-General pointed out that further progress had been made in the conduct of identification operations for the H41, H61 and J51/52 tribal groupings. He urged both parties to maintain their cooperation so as to ensure completion of this important activity by the end of December 1999, as planned.

30. The receipt of appeals had been completed. More than 79,000 appeals had been received, which corresponded very closely to the number of persons omitted from the first part of the provisional list of potential voters issued on 15 July 1999. The Secretary-General pointed out that under those circumstances, the Mission might be confronted with a lengthy appeals process, involving almost all applicants rejected in the first instance, as well as a large number of applicants whose inclusion in the provisional voters' list had been challenged. Depending on the results of MINURSO's analysis of the admissibility of the appeals, the outcome would require a thorough consideration of all relevant consequences relating to the application of the appeals procedures, to the staff, financial and other resources required, and to the timetable for holding the referendum. The Secretary-General had asked his Special Representative to consult further with the parties in that respect in order to be able to provide the Security Council in his report to be submitted in December 1999 with a realistic assessment, including implications, of the steps ahead.

31. With respect to the military aspect of the work of MINURSO, the Secretary-General reported that consultations with the Moroccan military authorities on the modalities for the implementation of paragraph 42 of the status-of-forces agreement concerning the carriage of weapons by MINURSO troops had been completed. The text of an arrangement had been signed by MINURSO and the Moroccan military authorities on 26 October 1999.

32. The Secretary-General stated that it was regrettable that the UNHCR draft plan of action on confidence-building measures, which had been presented to the Council in June 1999 and discussed with the two parties, had yet to be implemented. He stressed the importance of fostering a climate of trust and confidence between the parties as called for in the Settlement Plan. He urged both parties to cooperate fully with MINURSO and UNHCR for the immediate initiation of the confidence-building measures to which both parties had agreed in principle.

33. The Secretary-General submitted a report on 6 December 1999 (S/1999/1219) pursuant to resolution 1263 (1999), by which the Security Council had extended the mandate of MINURSO until 14 December 1999. He informed the Council that his Special Representative had met with President Maaouya Ould Sid'Ahmed Taya, Foreign Minister Ahmed Ould Sid' Ahmed and Interior Minister Dah Ould Abdel Jelil of Mauritania at Nouakchott on 14 November 1999. He had met with Frente POLISARIO Secretary-General Mohamed Abdelaziz and the Coordinator with MINURSO Emhamed Khaddad at Tindouf on 23 November. He had met with Algerian Prime Minister Smail Hamdani and Foreign Minister Ahmed Attaf at Algiers on 24 November. In Rabat, on 3, 8, 19 and 25 November, he had met with Moroccan Prime Minister Abderrahmane Youssoufi, the Minister for Foreign Affairs, Mohamed Benaissa, the new Minister of the Interior, Ahmed El Midaoui, who had been appointed on 9 November to replace Driss Bari, as well as with the new Secretary of State for the Interior, Fouad El Himma. On 26 November, the Special Representative had been received by King Mohammed VI.

34. During the Special Representative's discussions with the President of Mauritania, the President pledged

his full support for the Settlement Plan, expressed his concern about the prospect of substantial delays in its implementation, in the light of the large number of appeals, and called for an early solution to the question of Western Sahara.

35. The Secretary-General of the Frente POLISARIO pledged full support for the Settlement Plan but expressed his concern over the delays to the referendum, caused in particular by the large number of appeals from the first provisional voters list issued on 15 July 1999 and the prospects of possible additional appeals from the second list, which was expected to be released in January 2000. He maintained that a large number of appeals could be eliminated by adhering strictly to the provisions concerning their admissibility (see S/1999/483/Add.1, pp. 13-14), thereby significantly reducing the time needed to complete the appeals process. He emphasized the hardship faced by those who had spent years in the refugee camps and who suffered with every further delay in the implementation of the Plan.

36. The Prime Minister and the Foreign Minister of Algeria emphasized the long-standing support of their Government for the Settlement Plan and the importance of maintaining progress in its implementation. They expressed concern over the appeals problem and also argued that a strict interpretation of admissibility could reduce the time needed for completing the appeals phase.

37. The Moroccan authorities reiterated their support for the efforts of the United Nations under the Settlement Plan. With regard to the problems faced by MINURSO as a result of the large number of appeals, the Moroccan authorities, invoking Security Council resolution 1263 (1999), in which the Council had reaffirmed the rights of the applicants, reiterated that every prospective voter had the right to appeal and that admissibility requirements could be fulfilled by the naming of witnesses who would provide new information to support the appellants' inclusion in the voter list. The Special Representative was continuing his discussions with the Moroccan authorities on the issue as well as on their views concerning the prospects of a new round of appeals after the issuance of the second provisional voters list.

38. The Secretary-General expected the identification of the remaining applicants from tribal groupings H41, H61 and J51/52 to continue satisfactorily and to be completed by the end of December 1999. That would permit the publication of the second part of the provisional voter list and the initiation of the appeals process for the above tribal groupings by the middle of January 2000.

39. He pointed out that it appeared that, owing to the large number of appeals received and the opposing positions taken by the parties on the issue of admissibility, there seemed little possibility of holding the referendum before 2002 or even beyond.

40. He recalled that in his previous report to the Security Council he had indicated that the two parties had agreed in principle to the UNHCR draft plan for cross-border confidence-building measures. However, tangible progress had yet to be made in that regard. He reiterated his appeal to the parties to cooperate with UNHCR and MINURSO for the initiation of those measures and added that consultations needed to be resumed with all the parties to the UNHCR protocol as soon as possible with a view to finalizing the document.

41. Concluding his report, the Secretary-General recommended that the Security Council, in the light of the foregoing, extend the mandate of MINURSO until 29 February 2000. That would allow time for the completion of identification, the issuance of the second provisional voter list and the initiation of appeals from applicants of tribal groupings H41, H61 and J51/52, thus giving a clear picture of where the appeals issue stood. In the meantime, he had instructed his Special Representative to continue his consultations with the parties to seek a reconciliation of their widely diverging views regarding the appeals process, the repatriation of refugees and other crucial aspects of the United Nations Settlement Plan. He also cautioned that difficulties might be encountered in reconciling the opposing views of the parties regarding the appeals process and the repatriation of Saharan refugees, and therefore the implementation within a reasonable period of the Settlement Plan itself.

42. On 17 February 2000 the Secretary-General submitted a report (S/2000/131) pursuant to Security Council resolution 1282 (1999) by which the Council had extended the mandate of MINURSO until 29 February 2000 to complete the identification of voters, issue a second provisional voter list and initiate appeals for tribal groupings H41, H61, and J51/52.

43. In his report, the Secretary-General informed the Security Council that his Special Representative, William Eagleton, had pursued consultations with the parties to seek ways of moving the process forward, in particular with respect to the new round of appeals following the issuance of the second part of the provisional voter list on 17 January 2000 and to the preparatory work for the repatriation of Saharan refugees. To that end, the Special Representative had met with the Moroccan Secretary of State for Foreign Affairs, Taieb Fassi Fihri, at Rabat on 21 December 1999, with Foreign Minister Mohamed Benaissa and Interior Secretary of State Fouad El Himma on 11 January 2000, and again with Mr. Benaissa and Mr. Fassi Fihri on 31 January. He had met with Frente POLISARIO Secretary-General Mohamed Abdelaziz and with the Frente POLISARIO Coordinator with MINURSO, Emhamed Khaddad, at Tindouf, Algeria, on 27 January, and again with Mr. Khaddad in New York on 6 February.

44. The Frente POLISARIO continued to express its concern over delays resulting from the large number of appeals expected from the second part of the provisional voter list, in addition to the 79,000 appeals from the first part issued on 15 July 1999. It urged a strict interpretation of the admissibility procedures (S/1999/483/Add.1, pp. 13-14) so as to reduce the time needed to complete the appeal process. For their part, the Moroccan authorities reiterated the right of every applicant to appeal by presenting witnesses who could provide new information to support their inclusion in the voter list.

45. Following the release of the second part of the provisional list on 17 January, the Moroccan authorities expressed surprise and dismay at the small number of applicants found to be eligible. They emphasized the importance of an appeal process in which all Saharans rejected by the MINURSO Identification Commission were given the opportunity to restate their case. Moroccan officials again questioned the impartiality and objectivity of Identification Commission members and warned that the referendum would not be held if any person originating from the Sahara were denied the right to participate. At the same time, the Frente POLISARIO officials expressed the view that, if the process was delayed much longer, the presence of MINURSO would become irrelevant and there could be a return to armed hostilities. During consultations with the Secretary-General of the United Nations on 7 February, Mr. Abdelaziz reiterated the concerns of the Frente POLISARIO about the delays in the implementation process.

46. The Secretary-General indicated that almost nine years had elapsed since the establishment of MINURSO with the aim of holding a referendum of self-determination in Western Sahara. Nevertheless, it had not been possible during that period to implement in full any of the main provisions of the United Nations Settlement Plan, with the exception of the monitoring of the ceasefire, in effect since 6 September 1991. The implementation of the plan, including the start of the transitional period, had been impeded by fundamental differences between the parties over the interpretation of its main provisions. Of these, the issue of the establishment of the electorate had been, and might remain, a core problem that could eventually prevent the holding of the referendum as provided by the plan.

47. The Secretary-General further commented that, judging from the difficulties and delays encountered by MINURSO in the identification process from the outset, the two parties seemed to share the belief that the composition of the electoral body would predetermine the outcome of the referendum. At different times, therefore, one or the other party had withheld cooperation with the MINURSO identification procedures, in the belief that they might eventually skew the composition of the electorate. In fact, throughout the identification process, the cooperation of one or the other party with MINURSO had been predicated upon its perception of how the results might be favouring the other side.

48. The Secretary-General further stated that the same underlying concerns were likely to pervade the appeals process as well. MINURSO had already received 79,000 appeals from the first part of the provisional voters list and faced the prospect of 60,000 additional appeals from the second part of the list by the deadline of 25 February 2000. Under those circumstances, the timetable envisaged was no longer valid and the date for the referendum, which had been repeatedly postponed since 1991, could still not be set with certainty at the current stage.

49. He pointed out that, apart from the hearing of appeals, which could take a long time, other questions would still need to be settled with the parties before a referendum could be held. These included such complex and sensitive issues as a protocol for the

repatriation of Saharan refugees acceptable to all parties concerned and agreement on what would constitute appropriate security conditions for voting in the Territory. Experience had shown that each time the United Nations had proposed a technical solution to bridge the parties' differing interpretation of a given provision of the Settlement Plan, a new difficulty, requiring yet another round of protracted consultations, had arisen.

50. He further noted that the developments during the past nine years, and in particular over recent months, had raised doubts about the possibility of achieving a smooth and consensual implementation of the Settlement Plan and agreements adopted by the parties. Even assuming that a referendum were held pursuant to the Settlement Plan and agreements of the parties, if the result were not to be accepted by one party, no enforcement mechanism had been envisioned by the Settlement Plan – nor was one likely to be proposed – calling for the use of military means to effect enforcement.

51. In the light of that assessment, the Secretary-General concluded that it would be wise to review the situation. He therefore proposed to ask his Personal Envoy, James A. Baker III, to consult with the parties and, taking into account existing and potential obstacles, to explore ways and means to achieve an early, durable and agreed resolution of their dispute, which would define their respective rights and obligations in Western Sahara. In order to give adequate time for these consultations, the Secretary-General recommended that the Security Council extend the mandate of MINURSO for a period of three months, until 31 May 2000.

III. Consideration by the Security Council

52. The Security Council considered the reports of the Secretary-General (S/1999/721, S/1999/875, S/1999/1098, S/1999/1219 and S/2000/131) and took the following action.

53. On 14 May 1999, at its 4002nd meeting, the Security Council adopted resolution 1238 (1999), the operative part of which reads:

"1. *Decides* to extend the mandate of MINURSO until 14 September 1999, in order to resume the identification process, start the appeals process and conclude all outstanding agreements needed to implement the Settlement Plan, and reaffirms the rights of the applicants, with an expectation that the appeals process will not be turned into a second round of identification;

"2. *Supports* the proposed increase in staff of the Identification Commission from 25 to 30 members, and the proposed increase also in the necessary support activities, in order to strengthen the Commission and enable it to continue working with full authority and independence, in accordance with its mandate as authorized by the Security Council, and to accomplish its task expeditiously;

"3. *Requests* the Secretary-General to report every 45 days on significant developments in the implementation of the Settlement Plan, in particular on the following issues which will form, *inter alia*, the basis of its consideration of a further extension of the mandate of MINURSO: full and unequivocal cooperation of the parties during the resumption of voter identification and during the start of the appeals process; agreement of the Government of Morocco on the modalities of implementing paragraph 42 of the status-of-forces agreement; agreement of the parties on the protocol relating to refugees; and confirmation that UNHCR is fully operational in the region;

"4. *Requests also* UNHCR provide the Security Council with recommendations for confidence-building measures and timelines for their implementation;

"5. *Requests further* the Secretary-General to submit to the Security Council a revised timetable and financial implications for the holding of the referendum for the self-determination of the people of Western Sahara in accordance with the Settlement Plan and the agreements with the parties for its implementation;

"6. *Decides* to remain seized of the matter."

54. On 13 September 1999, at its 4044th meeting, the Security Council adopted resolution 1263 (1999), the operative part of which reads:

"1. *Decides* to extend the mandate of MINURSO until 14 December 1999, in order to complete the identification of voters ..., to implement confidence-building measures and conclude all outstanding agreements needed to implement the Settlement Plan, and to continue with the appeals process, and reaffirms the rights of the applicants, with an expectation that the appeals process will not be turned into a second round of identification;

"2. *Requests* the Secretary-General to report every 45 days on significant developments of the Settlement Plan;

"3. *Requests also* the Secretary-General to submit to the Security Council before the end of the current mandate a comprehensive assessment of steps taken towards the completion of the appeals process, and of staffing requirements as outlined in the report, as well as preparations for the repatriation of refugees and the start of the transitional period;

"4. *Decides* to remain seized of the matter."

55. On 14 December 1999, at its 4080th meeting, the Security Council adopted resolution 1282 (1999), the operative part of which reads:

"1. *Decides* to extend the mandate of the MINURSO until 29 February 2000 in order to complete the identification of voters, issue a second provisional voter list and initiate appeals for tribal groupings H41, H61 and J51/52;

"2. *Welcomes* the reiteration by the parties of their agreement in principle to the draft plan of action for cross-border confidence-building measures, including person-to-person contacts ..., and *calls* on them to cooperate with UNHCR and MINURSO for the initiation of these measures without further delay;

"3. *Takes note* of the concern that the problems posed by the current number of candidates who have exercised their right of appeal and the opposing positions taken by the parties on the issue of admissibility seem to allow little possibility of holding the referendum before 2002 or even beyond, and supports the intention of the Secretary-General to instruct his Special Representative to continue his consultations with the parties on these issues, seeking a reconciliation of their opposing views regarding the appeals process, the repatriation of refugees and other crucial aspects of the United Nations Settlement Plan;

"4. *Takes note* of the assessment by the Secretary-General, however, that difficulties may be encountered in reconciling the opposing views of the parties, and therefore requests the Secretary-General to report before the end of the present mandate on prospects for progress in implementing the Settlement Plan within a reasonable period of time;

"5. *Decides* to remain seized of the matter."

56. On 29 February 2000, at its 4106th meeting, the Security Council adopted resolution 1292 (2000), the operative part of which reads:

"1. *Decides* to extend the mandate of MINURSO until 31 May 2000;

"2. *Supports* the intention of the Secretary-General, as stated, *inter alia*, in his report, to ask his Personal Envoy to consult the parties and, taking into account existing and potential obstacles, to explore ways and means to achieve an early, durable and agreed resolution of their dispute;

"3. *Requests* the Secretary-General to provide an assessment of the situation before the end of the present mandate;

"4. *Decides* to remain seized of the matter."

IV. Consideration by the General Assembly

57. At the fifty-fourth session of the General Assembly, reference was made to the question of Western Sahara by a number of representatives in their statements during the general debate.

58. At the 3rd meeting of the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly, on 4 October 1999, the representative of Algeria said, regarding Western Sahara, that despite numerous obstacles, the process of

implementing the Settlement Plan and the Houston agreements was back on track, after five rounds of direct negotiations between Morocco and the Frente POLISARIO, yielding to the irreversible course of history and the general belief that the conflict could be resolved by the only worthy means, on the basis of the free and sovereign expression of its will by the Saharan people.

59. In that connection, Algeria, which had spared no effort to achieve a final settlement of the conflict between two brother countries, appealed for sincere and honest implementation of the provisions of the Settlement Plan, the Houston agreements and the agreement endorsed by the Security Council in May 1999. The authority of the United Nations was at stake. The entire international community must witness the fulfilment by the two sides of the commitment which they had made and of the Organization's commitment to bring to a conclusion the process of the organization of a referendum in Western Sahara.

60. In the period preceding and following the Saharan people's exercise of its right to self-determination, complete security must be ensured, including the physical protection of persons, their property and belongings. The experience of East Timor should show both sides what route should be followed and what obstacles should be avoided on the road to the free, sovereign and unimpeded expressions of the will of the Saharan people. The settlement of the Saharan problem would be beneficial not only to the fraternal Saharan and Moroccan peoples, but also to all the peoples of the region wishing to live in the Maghreb, to the attainment of domestic peace, and to a unified, stable and prosperous Maghreb truly able to solve the countless complex problems arising in a world embarked on globalization.

61. The Representative of Morocco said that the question of Western Sahara concerned not decolonization, but rather a referendum to complete the territorial integrity of Morocco. It was only after the so-called Western Sahara had been ceded back to Morocco following negotiations with the Government of Spain that, in circumstances that were known to all, a handful of rebels had forcibly taken control of a part of the population and conspired against Morocco's territorial integrity. Morocco had foiled the plot, but had nevertheless proposed that a referendum should be held under the auspices of the United Nations to settle the matter once and for all. It had since provided moral and material support to MINURSO and had invested considerable resources in developing the Territory's infrastructure and in bringing living standards up to the level that existed in the rest of the Kingdom.

62. Persons who were either ill-intentioned or ill-informed had been falsely claiming that Morocco was responsible for the delay in the holding of the referendum. It sufficed to consult the various reports which the Secretary-General had prepared on the question since 1991 to see that the opposite was true. Morocco had also been accused of delaying the implementation of the protocols and of the "package deal" proposed by the Secretary-General. In fact, the "package deal" concerned only Morocco's 65,000 applicants. His Government had been obliged to negotiate the criteria for their identification, with which it was still not satisfied.

63. The right to self-determination must not be denied to any section of the Saharan population. It was impossible to speak of self-determination, for example, if tribal groups who had fought against colonialism were rejected en masse by the Identification Commission. The criteria for participation in the referendum should be logical and reasonable and should include both ties of blood and ties to the Territory. Unfortunately, it was becoming increasingly apparent that the parties were heading towards a referendum that was undemocratic and inequitable. Morocco nevertheless continued to hope that the errors committed would be corrected in the near future.

64. Morocco solemnly reaffirmed that it would do everything possible to ensure that the referendum, which it had proposed in good faith, took place in a democratic, equitable and transparent manner. No administrative, routine or financial contingency could be invoked, however, to deny the entire population the right to express its wishes freely.

65. Ramon Orfilia, of the Federation Estatal de Instituciones Solidarias con el Pueblo Saharaui, said that only international pressure could ensure the referendum's implementation. A peaceful solution to the Western Sahara question must involve implementation of the Houston agreements and respect for the Settlement Plan. There must be a guarantee of full freedom of movement in the closed zones for all Saharawis. The presence of international observers and media representatives, guaranteed by the United Nations, was essential.

66. The challenge was to end peacefully, in accordance with the Houston agreements and the Settlement Plan, the only remaining colonial situation in Africa. Further delays could lead to disappointment. MINURSO must be strengthened so that the identification process could be finalized and the referendum could be carried out in a democratic manner.

67. Felipe Briones, of the International Jurists for Western Sahara, said that processing almost 80,000 appeals against the voter list for Western Sahara would turn into a second round of identification there. The legal framework could collapse, particularly if the appeals process was orchestrated to deliberately delay the referendum. It was necessary to avoid the legal fraud. The right to appeal should not prolong the difficult situation in the Territory. MINURSO should resolve the challenge. The time-frame of the referendum should not be changed.

68. The actions that must take place during the transition period should include opening up of the Territory, granting amnesty to Saharawi political prisoners and nullification of Moroccan laws administering the Territory. Moroccan military forces must be removed and its settlers repatriated. Never had MINURSO commanded more respect than it currently did. It must ensure a fair and democratic referendum.

69. The representative of Morocco, referring to a petitioner's statement that the appeals of rejected candidates had been denied, said that the right of appeal was universal and accepted and had been long recognized by courts and other institutions. New ideas should not be imposed on the Committee.

70. Regarding the reference to closed Territories, he said that the petitioner did not seem to know that members of MINURSO, as well as diplomats, moved freely in those areas. Morocco had never heard of such a description in relation to Western Sahara, where complete freedom of movement and security obtained.

71. Finally, the petitioner had not mentioned what was going on in the so-called liberated zones and in the Tindouf refugee camps. The identification process was the subject of a Settlement Plan agreed upon since 1988. There was a code of conduct and everything was being done according to the Plan.

72. At its 7th meeting, on 8 October 1999, the Fourth Committee approved, without a vote, a draft resolution on the question of Western Sahara. The representative of Morocco, referring to the resolution, stated that the question of Western Sahara was being resolved in the context of finalization of territorial integrity and was not a case of decolonization. For that reason, his country did not feel bound by all the provisions of the draft, which was a draft on decolonization. His Government was going to cooperate with all the bodies involved in the preparation of the referendum and MINURSO on the basis of decisions of the Security Council. It was concerned with refugees who should be allowed to vote. People who had blood relations with the Territory should also be able to make their will known, he stressed.

73. At its 71st plenary meeting on 6 December 1999, on the recommendation of the Fourth Committee, the General Assembly adopted, without a vote, resolution 54/87 entitled "Question of Western Sahara", the operative part of which reads:

> "1. *Takes note* of the report of the Secretary-General;
>
> "2. *Again notes with satisfaction* the agreements reached between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro for the implementation of the settlement plan during their private direct talks under the auspices of James Baker III, the Personal Envoy of the Secretary-General, and urges the parties to implement those agreements fully and in good faith;
>
> "3. *Commends* the Secretary-General and his Personal Envoy for their efforts in reaching those agreements as well as the two parties for the cooperation they have shown, and urges them to continue this cooperation in order to facilitate the speedy implementation of the settlement plan;
>
> "4. *Urges* the two parties to continue their cooperation with the Secretary-General and his Personal Envoy, as well as with his Special Representative, and to refrain from undertaking anything that would undermine the implementation of the settlement plan and the agreements reached for its implementation;
>
> "5. *Notes with satisfaction* the progress achieved in connection with the implementation of the settlement plan, and in this respect calls

upon the two parties to cooperate fully with the Secretary-General, his Personal Envoy and his Special Representative in implementing the various phases of the settlement plan;

"6. *Urges* the two parties to implement faithfully and loyally the Secretary-General's package of measures relating to the identification of voters, the appeals process and the revised implementation timetable;

"7. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

"8. *Reiterates its support* for further efforts of the Secretary-General for the organization and the supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara that is impartial and free of all constraints, in conformity with Security Council resolutions 658 (1990) and 690 (1991), by which the Council approved the settlement plan for Western Sahara;

"9. *Takes note* of Security Council resolutions 1131 (1997), 1238 (1999) and 1263 (1999);

"10. *Requests* the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the positive ongoing implementation of the settlement plan, and to report thereon to the General Assembly at its fifty-fifth session;

"11. *Invites* the Secretary-General to submit to the General Assembly at its fifty-fifth session a report on the implementation of the present resolution."

V. Other developments

74. On 7 April 2000 the Commission on Human Rights adopted without a vote resolution 2000/2 on the question of Western Sahara, the operative part of which reads:

"1. *Takes note* of the report of the Secretary-General (A/54/337);

"2. *Again notes with satisfaction* the agreements reached between the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro for the implementation of the settlement plan during their private and direct talks under the auspices of Mr. James Baker III, the Personal Envoy of the Secretary-General, and urges the parties to implement those agreements fully and in good faith;

"3. *Commends* the Secretary-General and his Personal Envoy for their efforts in reaching these agreements as well as the two parties for the cooperation they have shown, and urges them to continue this cooperation in order to facilitate the speedy implementation of the settlement plan;

"4. *Urges* the two parties to continue their cooperation with the Secretary-General and his Personal Envoy, as well as with his Special Representative, and to refrain from undertaking anything that would undermine the implementation of the settlement plan and the agreements reached for its implementation;

"5. *Notes with satisfaction* the progress achieved in connection with the implementation of the settlement plan, and in this respect calls upon the two parties to cooperate fully with the Secretary-General, his Personal Envoy and his Special Representative in implementing the various phases of the settlement plan;

"6. *Urges* the two parties to implement faithfully and loyally the Secretary-General's package of measures relating to the identification of voters, the appeals process and the revised implementation timetable;

"7. *Reaffirms* the responsibility of the United Nations towards the people of Western Sahara, as provided for in the settlement plan;

"8. *Reiterates its support* for further efforts of the Secretary-General for the organization and the supervision by the United Nations, in cooperation with the Organization of African Unity, of a referendum on self-determination of the people of Western Sahara that is impartial and free of all constraints, in conformity with Security Council resolutions 658

(1990) and 690 (1991), by which the Council approved the settlement plan for Western Sahara;

"9. *Takes note* of Security Council resolutions 1131 (1997) of 29 September 1997, 1238 (1999) of 14 May 1999 and 1263 (1999) of 13 September 1999;

"10. *Notes* that the General Assembly has requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara, bearing in mind the positive ongoing implementation of the settlement plan, and to report thereon to the Assembly at its fifty-fifth session;

"11. *Also notes* that the General Assembly has invited the Secretary-General to submit to it, at its fifty-fifth session, a report on the implementation of the present resolution."